

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

James “Bennie” Skelton,	)	
	)	C/A No. 2:09-1249-MBS
Plaintiff,	)	
	)	
vs.	)	
	)	<b>ORDER</b>
Family Services, Inc., Iris Albright,	)	
agent; Ed Jellison, agent; David Gear,	)	
Director,	)	
	)	
Defendants.	)	
_____	)	

Plaintiff James “Bennie” Skelton, proceeding pro se, brings this action against Defendant Family Services, Inc. and three of its employees, Defendants Iris Albright, Ed Jellison, and David Gear. Defendant Family Services, Inc. has been appointed by the South Carolina probate court to handle Plaintiff’s finances. Plaintiff seeks a return of the monies held by Defendant Family Services, Inc., as well as a declaration that he is competent.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Robert S. Carr for pretrial handling. The Magistrate Judge reviewed the petition pursuant to the provisions of 28 U.S.C. § 1915 and applicable precedents. The Magistrate Judge filed a Report and Recommendation on June 2, 2009. The Magistrate Judge determined that the complaint provided no basis for either federal question jurisdiction under 28 U.S.C. § 1331 or diversity jurisdiction under 28 U.S.C. § 1332. The Magistrate Judge recommended that the complaint be summarily dismissed without prejudice and without issuance and service process for lack of subject matter jurisdiction. Plaintiff filed no objection to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has

no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The within complaint is dismissed without prejudice and without issuance and service of process upon Defendants.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina

July 7, 2009.

**NOTICE OF RIGHT TO APPEAL**

**Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**